

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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UNITED STATES OF AMERICA

v.

M&J EXCAVATION, INC.,  
JOHN AUGUST SIDARI, JR.

NO: 1:20-CR-020

(Wilson, J.)

ECF

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**MOTION TO USE HANDWRITTEN NOTES OF  
AGENT GREGORY MCDOWELL**

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M&J Excavation, Inc. and John August Sidari, Jr., by and through undersigned counsel, move the Court to allow M&J and Mr. Sidari to use at trial for impeachment purposes handwritten notes taken by Agent Gregory McDowell during his interview with Mr. Sidari on March 21, 2017, pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and Fed. R. Evid. 613(a):

1. EPA Agent McDowell was the lead case agent in this matter for nearly three and a half years, from February 17, 2015 to his retirement in or about September 2018.
2. On March 21, 2017, Agent McDowell conducted a one-on-one, unrecorded interview of John Sidari. Agent McDowell took handwritten notes of his conversation with Mr. Sidari and used the handwritten notes to write an Investigative Activity Report of the interview.

3. The government agreed to turn over Agent McDowell's handwritten notes of his interview with Mr. Sidari to M&J and Mr. Sidari, subject to certain conditions that were memorialized in a stipulation between the M&J, Mr. Sidari, and the government.

4. After reviewing Agent McDowell's handwritten notes, M&J and Mr. Sidari believe that the notes are *Brady* material that should be admissible as impeachment evidence in the upcoming trial.

**WHEREFORE**, M&J and Mr. Sidari respectfully request that the Court enter an Order permitting them to use the handwritten notes at trial for impeachment purposes.

Respectfully submitted,

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Attorneys for Defendants  
M&J Excavation, Inc. and John August Sidari, Jr.

**CERTIFICATE OF NON-CONCURRENCE**

On April 22, 2022, by phone and e-mail, Department of Justice Environmental Crimes Section Senior Litigation Counsel Howard P. Stewart indicated that he does not concur in the foregoing Motion and that M&J and Mr. Sidari may include with their motion the handwritten notes of Agent McDowell, notwithstanding the stipulation by and between M&J, Mr. Sidari, and the government.

/s/ Lathrop B. Nelson, III  
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Attorneys for Defendants  
M&J Excavation, Inc. and John August Sidari, Jr.

**CERTIFICATE OF SERVICE**

Pursuant to Local Rule 5.7 and Standing Order 17-3, I hereby certify that the foregoing Motion to Use Handwritten Notes of Agent Gregory McDowell was served on counsel of record through the Electronic Case Filing System.

/s/ Lathrop B. Nelson, III  
Lathrop B. Nelson, III